No. 84379-1
(Consolidated with No. 84746-1)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In the Matter of the

GUARDIANSHIP OF SANDRA LAMB and REBECCA ROBINS

and

MARY JANE McNAMARA

BRIEF OF AMICI CURIAE DISABILITY RIGHTS WASHINGTON AND NATIONAL DISABILITY RIGHTS NETWORK IN SUPPORT OF RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ---------- iii

I. INTRODUCTION ---------- 1

II. INTERESTS AND IDENTITY OF AMICI ---------- 1

III. STATEMENT OF THE CASE ---------- 2

IV. ARGUMENT ---------- 2

A. Guardians Must Be Directed by the Interests and Preferences of Their Wards Whenever Possible ---------- 3

1. The Guardians' advocacy fails to consider their wards' explicit interests or preferences ---------- 5

2. The Guardians' advocacy fails to consider the wards' inferred preferences ---------- 6

3. The Guardians' advocacy fails to provide a direct benefit to their wards ---------- 8

B. Guardians Must Present Evidence to Establish a Direct Benefit ---------- 10

1. Guardians did not show a direct benefit because their lobbying does not promote the needs, interests or autonomy of their wards ---------- 10

2. Guardians did not show a direct benefit because they failed to obtain an independent assessment of their wards' needs and interests ---------- 11

3. Guardians did not show a direct benefit because their fees were not just and reasonable ---------- 12

4. Guardians did not show a direct benefit because they take actions in conflict with their wards' constitutional rights ---------- 15

5. Guardians did not show a direct benefit because their actions have the appearance of self-dealing ---------- 17

V. CONCLUSION ---------- 19

TABLE OF AUTHORITIES

CASES

Disque v. McCann, 58 Wash.2d 65, 69, 360 P.2d 583 (1961) 9

Estate of Montgomery, 140 Wash. 51, 53, 248 P. 64 (1926) 18

In re Dependency of T.R. 108 Wash. App. 149, 29 P.3d 1275 (2001) 9

In re Estate of Larson, 103 Wn.2d 517, 694 P.2d 1051 (1985) 13

In re Guardianship of Carlson, 162 Wash. 20, 29, 297 P. 764 (1931) 15

In re Guardianship of Karan, 110 Wash. App. 76, 38 P.3d 396 (2002) 9, 16

In re Guardianship of Lamb, 154 Wn. App. 536, 228 P.3d 32 (2009) ... 4, 9

In re Guardianship of Michelson, 8 Wn.2d 327, 335, 111 P.2d 1011 (1941) 9

In re Rohne, 157 Wash. 62, 74, 288 P. 269 (1930) 18

Matter of Guardianship of Eisenberg, 43 Wash. App. 761, 768, 719 P.2d 187, 192 (1986) 18

Matter of the Guardianship of Ingram, 102 Wn.2d 827, 838 (1984) 5, 6

Miller v. Bill Harbert Constr., Welch v. Met. Life, 480 F.3d at 945 13

Role Models Am., Inc. v. Brownlee, 353 F.3d 962, 971 (D.C. Cir. 2004) 14

Seattle-First Nat'l Bank v. Brommers, 89 Wn.2d 190, 200; 570 P.2d 1035 (1977) 3

STATUTES

RCW 11.88.005 ..... 3, 11, 16, 17

RCW 11.88.008 2

RCW 11.88.010(c) 7

RCW 11.88.010(5) 17

RCW 11.92.043(4) 18

RCW 11.92.140 ..... 3, 5, 12

RCW 11.92.180 ..... 13, 15

REGULATIONS

CPG Reg. 401 ..... 5, 6, 11, 16
CPG Reg. 401.10 ..... 8, 12
CPG Reg. 401.6 8
CPG Reg. 401.7 ..... 5, 6
CPG Reg. 402.1 ..... 5, 6
CPG Reg. 403.1 18
CPG Reg. 403.2 ..... 13, 16
CPG Reg. 406.3 ..... 11, 16
CPG Reg. 406.5.4 ..... 8, 11
CPG Reg. 406.9 18

OTHER AUTHORITIES

Allison Patrucco Barnes, "Beyond Guardianship Reform," Emory L.J., Volume 41, No. 3,732 (1992) 15

"Cases of Financial Exploitation, Neglect, and Abuse of Seniors." (Publication No. GAO-10-1046). Retrieved from GAO Reports via GPO Access database: http://www.gpoaccess.gov/gaoreports/index.html 13

"Decision-Making, Incapacity and the Elderly", Legal Counsel for the Elderly, American Association of Retired Persons, 1987, p. 77 16

Fiduciary Appointments in New York: A Report to Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman. 18

"The Mentally Disabled and the Law," American Bar Foundation, Volume 29, 1985, p. 29 16

I. INTRODUCTION

Disability Right Washington ("DRW") and the National Disability Rights Network ("NDRN") submit this *Amici Curiae* brief in support of respondents, Department of Social and Health Services ("DSHS"), in the above-captioned consolidated actions. *Amici* submits this brief to present a three-part test supported by state and federal laws demonstrating that guardians lack authority to substitute their beliefs for those of their ward.

II. INTERESTS AND IDENTITY OF AMICI

Since 1973, DRW has been designated by federal law and the governor of Washington to provide protection and advocacy services for people in Washington with disabilities. Stroh Decl., ¶ 2. DRW has extensive knowledge about the scope of guardianship law and various legal and public policy advocacy services available to people with disabilities. *Id.*

NDRN is the non-profit membership association of protection and advocacy ("P&A") agencies that are located in all 50 states, the District of Columbia, Puerto Rico, and the United States Territories. P&A agencies are authorized under various federal statutes to provide legal representation and related advocacy services, and to investigate abuse and neglect of individuals with disabilities in a variety of settings. The P&A System comprises the nation's largest provider of legally-based advocacy

services for persons with disabilities. NDRN supports its members through the provision of training and technical assistance, legal support, and legislative advocacy, and works to create a society in which people with disabilities are afforded equality of opportunity and are able to fully participate by exercising choice and self-determination. In particular, NDRN provides training about state guardianship law, including examples of abuse as a result of unnecessary guardianship or neglect as a result of a guardian's financial mismanagement.

III. STATEMENT OF THE CASE

Amici join in Respondent's Statement of the Case.

IV. ARGUMENT

At issue is whether professional guardians[1] James and Alice Hardman (hereinafter "Guardians") can charge their wards[2] for the Guardians' systemic state and federal lobbying where there is no evidence that the individual wards want or benefit from such advocacy. The courts are the "superior guardian" and have the paramount duty to protect the

[1] The Hardmans are professional guardians as defined by RCW 11.88.008 and are required to be certified by the Washington State Certified Professional Guardian Board ("CPG Board"). Appointed by the State Supreme Court, the CPG Board is the regulatory authority over the practice of professional guardians and adopted the CPG Standard of Practice Regulations as well as sponsors trainings, issues advisory opinions, and reviews grievances against professional guardians due to failures to follow the CPG regulations and other applicable laws. *See* Exhibit A, Cooper Pura Decl. ¶ 4, for a full and accurate copy of the CPG Standards of Practice Regulations.

[2] The eight wards that are the subjects of these appeals include Sandra Lamb, Rebecca Robins, Mary Jane McNamara, Suzanne Mackenzie, Richard Milton, Bruce Moser, David Schmidt, and Daniel Werlinger.

interests of individuals with disabilities who the courts have determined to require a guardian. *Seattle-First Nat'l Bank v. Brommers*, 89 Wn.2d 190, 200; 570 P.2d 1035 (1977).

A. Guardians Must Be Directed by the Interests and Preferences of Their Wards Whenever Possible

The legislature sought to maximize the liberty and autonomy of individuals with disabilities when it restricted a guardian's intervention to "the *minimum* extent necessary" to provide for the individual's wards own health, safety, and financial affairs. RCW 11.88.005 (emphasis provided). A ward's autonomy (or personal independence and capacity to exercise his or her own rights) is affected by three increasingly intrusive levels of guardian intervention. The level of involvement is controlled by the ward's capacity to make his or her intentions known.

The first and least intrusive level of guardianship involvement is used when a ward can explicitly state his or her preferences. *See* RCW 11.92.140.[3] In those instances, the guardian should seek to effectuate the ward's preference or intent in a manner consistent with the guardians other duties relative to health, safety, and finances. *See* RCW 11.88.005.

[3] RCW 11.92.140 provides in part: "The court...may authorize the guardian to take any action, or to apply funds not required for the incapacitated person's own maintenance and support, in any fashion the court approves as being in keeping with the incapacitated person's wishes so far as they can be ascertained..."

When the ward lacks capacity to state his or her preferences, the second level of intervention requires the guardian to give significant weight to the ward's implied preferences, as ascertained by residual capacity to form preferences as well as the ward's historic preferences. *See* Certified Professional Guardian Standard of Practice Regulations (hereinafter "CPG Reg.") 401.7[4] and 402.1.[5]

When the individual cannot make his or her preferences known either explicitly or implicitly, then the guardian may proceed to the third most intrusive level of intervention: did the guardian establish that their activities provide a direct benefit to their wards. *See In re Guardianship of Lamb*, 154 Wn. App. 536, 228 P.3d 32 (2009).

Instead of following objective law and establishing a preference or a direct benefit, the Guardians ask the Court to simply "follow the guardian's discretion [regarding the "best interests" of their wards] absent significant wrongdoing." Lamb Corrected Brief, p. 11. The Guardians argue courts should provide great deference to their unilateral decisions for their wards without any finding regarding individual ward's preferences or a direct benefit to the ward. *See* Lamb Corrected Br., p. 11;

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[4] CPG Reg. 401.7 provides in part: "the guardian shall acknowledge the residual capacity of the incapacitated person to participate in or make some decisions."
[5] CPG Reg. 402.1 provides in part: "the guardian shall make reasonable efforts to ascertain the incapacitated person's historic preferences and shall give significant weight to such preferences".

see also McNamara Repl. Br. p. 14. However, the law requires deference be given to the ward's preference, *not* the guardian's. *See Matter of the Guardianship of Ingram*, 102 Wn.2d 827, 838 (1984); *see also* CPG Reg. 401.7 and 402.1. Here, the Guardians failed to demonstrate that their actions were directed by the express and implicit preferences of their individual wards or, alternatively, provided a direct benefit to the ward.

1. The Guardians' advocacy fails to consider their wards' explicit interests or preferences

The scope of a guardian's duties is limited to the wishes of their wards insofar as those wishes can be ascertained. RCW 11.92.140. The Certified Professional Guardian ("CPG") Standards of Practice Regulations provide additional guidance regarding a professional guardian's duties and specifically limits guardianship advocacy to the unique needs and "individual preferences" of the person with a disability. *See* CPG Reg. 401.[6] Here, the Guardians failed to prove they met their duty to conduct an inquiry into the individual preferences of each ward to establish why each individual would prefer to contribute their speech, property, and autonomy to the Guardians' systemic lobbying efforts that

[6] CPG Reg. 401 provides: "A guardian shall exercise care and diligence when making decisions on behalf of an incapacitated person. The civil rights and liberties of the incapacitated person shall be protected. The independence and self-reliance of the incapacitated person shall be maximized to the greatest extent consistent with their protection and safety."

sought to promote all institutions, not just the institution in which they live.

2. The Guardians' advocacy fails to consider the wards' inferred preferences

If it is shown that a ward's explicit interests and preferences cannot be ascertained due to the individual ward's disabilities, then the guardian must give substantial deference to the inferred interests and preferences as evidenced by the residual capacity of their ward to participate in and make some decisions and the ward's historic preferences. CPG Reg. 401.7[7] and 402.1.[8] Even where the statute expressly allows guardians to exercise their wards' rights for them, courts have required an individualized determination of what that individual ward would choose, given the circumstances. *See Matter of the Guardianship of Ingram*, 102 Wn.2d 827, 838 (1984) ("All courts seem to agree that the goal is to do what the ward would do, if she were competent to make the decision"). *Ingram* requires an individualized evaluation of what their wards would choose - not what the guardians prefer.

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[7] CPG Reg. 401.7 provides in part: "Whenever feasible a guardian shall consult with the incapacitated person, and shall treat with respect, the feelings, values, and opinions of the incapacitated person. Wherever possible, the guardian shall acknowledge the residual capacity of the incapacitated person to participate in or make some decisions."

[8] CPG Reg. 402.1 provides in part: "the guardian shall make reasonable efforts to ascertain the incapacitated person's historic preferences and shall give significant weight to such preferences. Competent preferences may be inferred from past statements or actions of the incapacitated person."

Here, the record lacks any indication that the guardians acknowledged their wards' residual capacity to make decisions or what they would want if they were competent to make that decision. Instead, the Guardians point to aspects of the wards' disabilities, such as all eight individuals are "profoundly intellectually disabled", have "no speech capability", "cannot express preferences on abstract subjects in any way", and "There [sic] intellectual development ages are approximately 24-36 months." Lamb Op. Br. at 1 and McNamara Repl. Br. at 2-7. Assuming that the Guardians' recitation of their wards intellectual diagnoses is correct, it remains unclear what *residual* abilities these individuals have to make any of their preferences known. Even the Guardians note that Mr. Milton expresses preferences for particular activities and people even though Mr. Milton does not communicate with words but instead "communicates primarily with facial expressions and some vocalizations." McNamara Repl. Op. Br. at 3-4. Likewise, Mr. Schmidt "communicates with facial expressions and some gestures." McNamara Repl. Op. Br. at 6-7.

A medical diagnosis alone is insufficient to justify a legal finding of incapacity to make decisions. *See* RCW 11.88.010(c). It is insufficient for the Guardians to claim that merely the presence of a significant disability or inability to verbally "answer questions contained in a

questionnaire" warrants expending an individual's money to promote the continued use of all institutions for a broad class of people, even institutions the ward has not even visited. *See* McNamara Repl. Op. Br. at 5. Furthermore, the guardian must be informed by an independent professional evaluation or assessment by an expert qualified to render an opinion regarding residual capacity to make decisions or demonstrate preferences. *See* CPG Reg. 401.10[9] and 401.6.[10] Here, the Guardians failed to adhere to their professional practice regulations requiring independent assessments regarding the individualized needs, interests, and capacities of each ward. The residual abilities of the wards remain unknown.

3. The Guardians' advocacy fails to provide a direct benefit to their wards

If substantial evidence indicates that a ward lacks the capacity to explicitly or implicitly express a preference, then and only then, may the guardian infringe upon a ward's autonomy and act on the wards behalf to confer a direct benefit to the ward. CPG Reg. 406.5.4. The lower court found that "[b]ecause the Hardmans fail to establish that these activities

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[9] CPG Reg. 401.10 provides: "The guardian shall seek independent professional evaluations, assessments, and opinions when necessary to identify the incapacitated person's needs and best interests."

[10] CPG Reg. 401.6 provides: "The guardian must know and acknowledge personal limits of knowledge and expertise and shall assure that qualified persons provide services to the incapacitated person."

provide a direct benefit to their wards, we hold that they are not entitled to compensation under the facts of this case." *In re Guardianship of Lamb*, 154 Wn. App. 536, 228 P.3d 32 (2009).

The Guardians seek to categorize the lower court's ruling as unprecedented. The Guardians argue that "the Court of Appeals opinion is the first published case to apply the 'direct benefit' rule to a guardianship of the person..." Lamb Op. Br, page 6. However, the Guardians are incorrect on this point. There are at least four Washington cases directly on point discussing a guardian's duty to establish a direct benefit or benefit that is particularized to the individual needs of the ward and not others. *See In re Guardianship of Karan*, 110 Wash. App. 76, 38 P.3d 396 (2002) (the primary reason to establish a guardianship is to preserve the ward's property for his or her own direct use and is not for the benefit of others); *In re Dependency of T.R.* 108 Wash.App. 149, 29 P.3d 1275 (2001) (guardianship was proper because there were three benefits that were specific to the ward's needs including a residential placement decision); *In re Guardianship of Michelson,* 8 Wn.2d 327, 335, 111 P.2d 1011 (1941) (the purpose of a guardianship is to preserve the ward's property for his or her individual use, as distinguished from the benefit of others); and *Disque v. McCann,* 58 Wash.2d 65, 69, 360 P.2d 583 (1961) (a guardian's requests for compensation may be established by credible

corroborative evidence that activity is for the support and maintenance of the guardian's ward or for the individual ward's benefit). All of these cases establish that to be entitled to compensation for acting on behalf of a ward, a guardian must show a direct benefit to his or her ward.

B. Guardians Must Present Evidence to Establish a Direct Benefit

The Certified Professional Guardian ("CPG") Standard of Practice Regulations contain numerous factors that may be used to examine whether a professional guardian's action provides a direct benefit to the individual ward. Below, five factors found within the CPG regulations, common law, or statutory law are discussed. (While illustrative, this list is not exhaustive.) The five direct benefit factors include whether the action: satisfies a need or promotes ward's interest or autonomy; is supported by an independent expert evaluation; is just and reasonable; is consistent with fundamental constitutional protections; and does not appear to be the product of the guardian's self-dealing.

1. Guardians did not show a direct benefit because their lobbying does not promote the needs, interests or autonomy of their wards

A direct benefit is provided to a ward when the advocacy provided is necessary to protect or promote an individualized or particularized need

or interest of the ward or to maximize their autonomy. *See* CPG 406.5.4,[11] 406.3,[12] and 401.[13]

In 1991, the legislature made clear their intent to maximizing the liberty and autonomy of individuals with disabilities by restricting a guardian's intervention to "the minimum extent necessary". RCW 11.88.005. Here, the Guardian's lobbying does not promote the wards interest because they are not lobbying to keep the ward's individual placement at Fircrest School open, but instead are lobbying to keep all other institutions open – when the maintenance of every other institutions besides Fircrest School would have no impact or benefit to their wards and there was not evidence of an active plans to close or downsize Fircrest School during the period in question.

2. Guardians did not show a direct benefit because they failed to obtain an independent assessment of their wards' needs and interests

A direct benefit to the ward may also be established by the guardian seeking "independent professional evaluations, assessments, and opinions when necessary to identify the incapacitated person's needs and

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[11] CPG Reg. 406.5.4 provides in part: "...the guardian shall...Consider the incapacitated person's ability to gain the benefits of specific decisions."
[12] CPG Reg. 406.3 provides in part: "The guardian shall manage the estate with the primary goal of providing for the needs of the incapacitated person."
[13] CPG Reg. 401 provides in part: "The independence and self-reliance of the incapacitated person shall be maximized to the greatest extent ..."

best interests." CPG Reg. 401.10; *see also* CPG Reg. 401.6.[14] Instead of seeking independent professionals (i.e. care providers, medical staff) to obtain an assessment for each ward, the Guardians reject their Standard of Practice Regulations and instead hold themselves out as the exclusive source of information about what is best for their wards and inaccurately state "no one else [is] available to protect [Ms. Lamb and Ms. Robin's] rights and interests". Lamb Op. Br., p. 2.

3. Guardians did not show a direct benefit because their fees were not just and reasonable

If a ward's wishes cannot be ascertained, the law presumes the ward would favor just and reasonable fees that would reduce any taxation and distribution of their estate. *See* RCW 11.92.140. Courts may determine whether to award "just and reasonable fees" to a guardian by looking to see if the actions being billed were within the guardian's scope of duties and conferred a direct benefit to the guardian's ward. *See* RCW 11.92.180[15] and CPG Reg. 403.2.[16] In order to benefit their ward, a guardian's fees are also limited based on what is reasonably necessary. *See In re Estate of Larson*, 103 Wn.2d 517, 694 P.2d 1051 (1985) (due

[14] CPG Reg. 401.6 provides: "The guardian must know and acknowledge personal limits of knowledge and expertise and shall assure that qualified persons provide services to the incapacitated person."
[15] RCW 11.92.180 provides in part: "A guardian...shall be allowed such compensation for his or her services as guardian...as the court shall deem just and reasonable."
[16] CPG Reg. 403.2 provides in part: "All expenses paid or incurred on behalf of the incapacitated person by the guardian shall be documented, reasonable in amount, and incurred for the incapacitated person's welfare."

process and judicial oversight of guardian's fees is critical as it ensures a more objective procedure to ensure individual interests of their vulnerable wards are protected and promoted).[17]

When the court reviews the reasonableness of guardian fees, it is engaged in a task very similar to its role assessing reasonable attorney fees. Just as guardians may only petition for reasonable fees, so too must attorneys bill reasonable fees. RPC 1.5(a). When looking at attorney's billing practices, courts have challenged the reasonableness of block billing due to the lack of particularization. *See Miller v. Bill Harbert Constr.*, *Welch v. Met. Life*, 480 F.3d at 945. ("'Block billing' is the time-keeping method by which entries are based on the total daily time spent working on a case rather than itemizing the time expended on specific tasks.") Lumping together tasks deprives the court of the ability to adequately assess whether the amounts requested were reasonable. *See e.g., Role Models Am., Inc. v. Brownlee,* 353 F.3d 962, 971 (D.C. Cir. 2004) (court reduced fees because the attorney's practice of block billing

[17] Courts have a heightened role to protect those under a guardianship. The GAO recently issued a report identifying hundreds of allegations of physical abuse, neglect and financial exploitation by guardians in 45 states, including Washington State, between 1990 and 2010. In nearly half of the selected cases, GAO found that guardians improperly obtained $5.4 million in assets from 158 incapacitated victims. U.S. Government Accountability Office. (2010 September). "Cases of Financial Exploitation, Neglect, and Abuse of Seniors." (Publication No. GAO-10-1046). Retrieved from GAO Reports via GPO Access database: http://www.gpoaccess.gov/gaoreports/index.html.

"lump[ed] together multiple tasks, making it impossible to evaluate their reasonableness").

Here, the Guardians have conducted a wide range of legislative and communications activities. Instead of billing for activities for a single client on a particular day, the Guardians go several steps beyond the typical block billing disfavored in legal practices and simply look back at the total number of hours spent in the entire month, multiply that number by an hourly fee, and divide the total by the number of their wards. The Guardians argue:

> A monthly average calculation is sufficient because reporting periods differ for each incapacitated person, the number of residents served changes, and some residents die leaving no funds to compensate for services.

McNamara Repl. Op. Br., p. 23. Guardians failed to individually bill a particular ward for a particular task. Billing should not be based on the numbers of wards a guardian chooses to take or whether an individual ward is close to death. While this may be an efficient business model, the lack of particularization in the request for fees fails to protect and preserve an individual wards assets and demonstrates the Guardians have not shown each ward is receiving a direct benefit from the Guardians' activities.

When a court finds that the guardian has failed to discharge his or her duties, it may deny the guardian any compensation or reduce the compensation which would otherwise be allowed. RCW 11.92.180; *see also In re Guardianship of Carlson*, 162 Wash. 20, 29, 297 P. 764 (1931). Here, as the lower court held, the Guardians are not entitled to compensation as they have failed to establish a direct benefit justifying charging their wards for lobbying activities in other states or in other state facilities, when the maintenance of those institutions would have no impact on their wards.

4. Guardians did not show a direct benefit because they take actions in conflict with their wards' constitutional rights

A direct benefit to a ward may also be assessed by inquiring as to how the proposed activity impacts the ward's constitutionally protected interests. For example, liberty and property interests are suggested by the well-established guardian responsibility to ensure a residential placement in the least restrictive environment.[18] Property interests are also

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[18] *See e.g.*: Allison Patrucco Barnes, "Beyond Guardianship Reform," Emory L.J., Volume 41, No. 3,732 (1992) ("The standard of the least restrictive alternative weighs against the care provider's inclination to impose restrictions designed to minimize risk"); Samuel J. Brakel, John Parry and Barbara A. Weiner, "The Mentally Disabled and the Law," American Bar Foundation, Volume 29, 1985, p. 29 ("The idea that patients should be treated in the setting that is least restrictive of their liberties has grown over the past decade into one of the key legal concepts in the mental disability field"); and "Decision-Making, Incapacity and the Elderly", Legal Counsel for the Elderly, American Association of Retired Persons, 1987, p. 77 ("The constitutional doctrine of the least restrictive alternative may be implicated in protective arrangements, since fundamental

implicated by a guardian's primary goal of preserving a ward's funds for the ward's own use. *See* CPG 403.2 and CPG 406.3; *see also In re Guardianship of Karan*, 110 Wash.App. 76, 38 P.3d 396 (2002) (A guardian's responsibilities include preserving a ward's estate for his or her own direct benefit.). Here, the Guardians accounting itself reveals a lack of particularized assessment of what would benefit the individual ward. Instead, the Guardians have simply block-billed or comingled several types of lobbying and political work that they wished to pursue and divided the total amount by the number of their wards. CP 135, 143, 193-197. The record lacks any particularized reason why the wards should individually be financially responsible for the pursuit of a political agenda.).

A ward also receives a direct benefit when their own civil rights are maximized to the greatest extent instead of having those rights assumed by their guardians. *See* CPG 401 and RCW 11.88.005. Here, the Guardians argue that they are afforded the right to "exercise the civil and Constitutional rights" of their wards. Lamb Op. Br., pg. 5. They go on to argue this case relates to the Guardians' "entitlement" and they object to the court "[d]isempowering of guardians". Lamb Op. Br., pp. 5 and 13. However, this shows how fully these professional Guardians have

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liberty and property interests will be restricted.").

misunderstood their role. Guardians do not have rights, they have primary duty to maximize their ward's autonomy while providing for health, safety, and financial matters. *See* RCW 11.88.005. Yet, the Guardians disregard the individual ward's autonomy and fail to demonstrate how their actions directly benefit or reflect the particular preferences of their wards.

Arguing that their rights as guardians should not be diminished turns guardianship law on its head and treats individuals who happen to have guardians as if they and their own voice do not exist. The Guardians in this case primarily seek to amplify their own voice and interest in maintaining all institutions. The law does not provide guardians to multiply their voting ballots, podiums, or seats in church by the number of their wards they have gathered especially when such transfer strips the ward of their own autonomy and residual ability to exercise their own beliefs. *See* RCW 11.88.005 and 11.88.010(5) (the right to vote is an individual right and cannot be transferred over to guardians).

5. Guardians did not show a direct benefit because their actions have the appearance of self-dealing

A direct benefit to a ward may also be supported by evidence that the guardians actions do not appear to be the product of self-dealing. *See*

CPG Reg. 403.1[19] and 406.9. A guardian must act in a ward's best interests and not their own. *See* RCW 11.92.043(4).[20] Self-dealing includes using the ward's estate to fund entities in which the guardian has a substantial personal interest. *See Matter of Guardianship of Eisenberg*, 43 Wash. App. 761, 768, 719 P.2d 187, 192 (1986) (court held a guardian in breach of the duty of loyalty when he leased guardianship property to corporations in which he had substantial personal interest). A guardian's fees are "highly reprehensible" when the guardian's action benefitted the guardian rather than the ward. *In re Rohne*, 157 Wash. 62, 74, 288 P. 269 (1930); *see also Estate of Montgomery*, 140 Wash. 51, 53, 248 P. 64 (1926) (court held guardian's activities that promoted the guardian's own interests rather than the ward's interests were "indefensible in law").

Here, the Guardians' are seeking $400 per month from each ward in order to "engage in advocacy at the Fircrest School level and direct advocacy at legislative officials, executive officials, and community organizations." McNamara Repl. Brief, p. 18; *see also* CP 135, 143, 193-

[19] CPG 403.1 provides: "The guardian shall avoid self-dealing, conflict of interest, and the appearance of a conflict of interest. Self-dealing or conflict of interest arise when the guardian has some personal, family, or agency interest from which a personal benefit would be derived..."

[20] A study conducted by the New York Office of Administrative Hearings examined several guardianship cases and revealed that the guardians did not always act in the best interests of their wards particularly regarding their fiduciary duty to preserving their ward's financial interests. *Fiduciary Appointments in New York: A Report to Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman*. Retrieved from the New York State Court Guardian and Fiduciary Page from the Court's website: http://www.courts.state.ny.us/ip/gfs/igfiduciary.html.

197, 329-331. These activities include paying for their own professional development courses, media appearances, and national lobbying efforts. CP 135, 143, 193-197. CP 135, 143, 193-197. James and Alice Hardman are on the Board of Friends of Fircrest and James Hardman is the President.[21] The Guardians have not only failed to show how their wards would benefit from such activity but it appears that such activity directly benefits the Guardians interests as board members in an advocacy organization.

V. CONCLUSION

Because the Guardians failed their duty to present evidence that engaging in systemic lobbying is based either on their wards' explicit or implied preferences or established by a direct benefit to their wards, they are not entitled to any compensation relating to these activities as a matter of law.

Dated this 31st day of May, 2011

Respectfully submitted,

By _____

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[21] James Hardman, *Message from Jim Hardman, FoF President,* Friends of Fircrest News (January 2011). Retrieved from Friends of Fircrest Newsletter page: http://www.fircrestfriends.org/Newsletter/FoFNewsJanFeb11.pdf.

CERTIFICATE OF SERVICE

I hereby certify and declare that on the 31st day of May, 2011, I caused to be served by legal messenger a copy of the foregoing document to the following:

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I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 31st day of May, 2011.

Mona Rennie

Mona Rennie, Legal Assistant